

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF NECESSITY BY THE COUNCIL OF THE CITY OF SANTA BARBARA FOR THAT REAL PROPERTY OCCUPIED BY A PORTION OF THE MISSION CREEK FLOODWAY, FRONTING THE 500 BLOCK OF DE LA VINA STREET, SHOWN TOGETHER WITH SANTA BARBARA COUNTY ASSESSOR'S PARCEL NUMBER 037-161-032

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES HEREBY DETERMINE AND RESOLVE AS FOLLOWS:

SECTION 1. That on July 1, 2008, after fifteen days written notice to the owners of the property described hereafter, as they appeared on the last equalized County Assessment Roll, the City Council held a hearing for the purpose of allowing the owners thereof and other persons a reasonable opportunity to appear and be heard on the following matters:

- a. That the public interest and necessity require the proposed project;
- b. That the proposed project (as depicted on City Plan No. C-1-4198, a copy of which is permanently on file at the Public Works Department of the City of Santa Barbara) is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury;
- c. That the property described in the resolution is necessary for the proposed project;
- d. That the offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record;
- e. That the proposed project has been determined to be categorically exempt from further environmental review pursuant to California Environmental Quality Act regulations 15301 and 15320; and,
- f. Such other and further matters as may be referred to in California Code of Civil Procedure §1245.230.

SECTION 2. That the Council of the City of Santa Barbara does hereby find, determine and declare that:

- a. The public interest and necessity require the proposed project;
- b. The proposed project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury;
- c. All the property described in this resolution is necessary for the proposed project;

d. The offer required by Section 7267.2 of the California Government Code has been made to the owner or owners of record (or the offer has not been made because the owner cannot be located with reasonable diligence); and

e. The proposed project was evaluated in the certified Lower Mission Creek Flood Control (LMCFC) Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR) (State Clearinghouse No. 1998101061) and an Addendum to the LMCFC Project EIS/EIR dated March 10, 2008, pursuant to California Environmental Quality Act (CEQA). The certified EIS/EIR determined that there would be unavoidable impacts associated with the project. The Addendum indicates that no new significant impacts or changes in circumstances or regulations would be anticipated since the original EIS/EIR was certified.

The taking of the real property described herein is authorized by Section 19 of Article I of the California Constitution, Section 37350.5 of the California Government Code, and Sections 1240.010 through 1240.125 of the California Code of Civil Procedure.

SECTION 3. That the Council of the City of Santa Barbara does hereby declare that it is the intention of said City to acquire said real property described herein in its name in accordance with the provisions of the laws of the State of California with reference to condemnation procedures.

SECTION 4. That the said real property is located in the City of Santa Barbara, County of Santa Barbara, State of California, as more particularly described as follows:

I. MISSION CREEK FLOODWAY

The Council of the City of Santa Barbara, as a result of said hearing, has determined that the public interest and necessity require the acquisition by the City in fee simple the real property located within the floodway of a portion of Mission Creek, being referred to merely for convenient reference herein as Parcel No. 037-161-014-03, and more particularly described as follows:

A portion of Block 232 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the official map thereof, described as follows:

That portion of said Block 232 bounded as follows:

On the south by the northerly boundary of the parcel of land described in the Grant Deed to Maria E. Solis recorded on August 26, 2003, as Instrument No. 2003-0116092 of Official Records, in the office of the County Recorder of said County.

On the northwest by the northeasterly prolongation of the northwesterly boundary of said Solis property.

On the north by the southerly boundary of Parcel "A" of Parcel Map No. 20,133 as filed in Book 18, Pages 52 & 53 of Parcel Maps in the office of said County Recorder.

On the northeast by the northeast boundary of said Block 232.

Containing an area of approximately 1,752 square feet.

SECTION 5. That the City Attorney is hereby authorized and directed to prepare, institute and prosecute in the name of the City, and is authorized to retain a law firm as Special Counsel for such proceedings, if necessary, in the proper Court having jurisdiction thereof, as may be necessary for the acquisition of the fee simple of the real property described herein. Said counsel is also authorized and directed to obtain a necessary order of court granting to said City the right of immediate possession and occupancy of said real property and, at the discretion of the City Attorney, to approve and execute a settlement agreement or stipulated judgment vesting title to the real property described herein on terms and conditions approved by the City Attorney for the best interests of the City.

SECTION 6. That the Environmental Quality Control Act of 1970, as amended, and guidelines adopted pursuant thereto, have been complied with insofar as the above project is concerned by the issuance of a Negative Declaration (SCH No. 1998101061, dated March 10, 2008), which is hereby approved and directed to be filed with the City Clerk.